Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author: Fuentes
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Bill Number: AB 15

Related Bills: See Prior Analysis
Telephone: 845-7814
Amended Date: March 25, 2009

Attorney: Patrick Kusiak
Sponsor:

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/ October & November 2008 Los Angeles and Ventura County Wildfires

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ____________.

_X_ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended ____________.

____ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO ____________.

_X_ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED March 25, 2009, STILL APPLIES.

_X_ OTHER – See comments below.

SUMMARY

This bill would allow special tax treatment, called disaster loss treatment, for losses sustained as a result of the October and November, 2008, Los Angeles County and the October, 2008, Ventura County wildfires.

This analysis will not address the bill's changes to the Property Tax Law as they do not impact the department or state income tax revenue.

SUMMARY OF AMENDMENTS

The March 25, 2009, amendments would add the October, 2008, Ventura County wildfires to the list of specified disasters.

As a result of the amendments, the "Program Background," "This Bill," and "Revenue Impact" discussions, as provided in the department's analysis of the bill, as amended February 26, 2009, have been revised. The remainder of that analysis still applies.

Board Position:			Asst. Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Patrice Gau-Johnson	04/21/09
____ N	____ OUA	_X_ PENDING		

ANALYSIS

PROGRAM BACKGROUND

On October 13, 2008, Governor Arnold Schwarzenegger proclaimed a state of emergency, declaring the wildfires that occurred in Los Angeles and Ventura Counties to be a state disaster. On November 15, 2008, the Governor proclaimed another state of emergency with respect to the Los Angeles County wildfires. In addition, on November 18, 2008, President George W. Bush declared the Los Angeles, Orange, Riverside, and Santa Barbara County wildfires a federal disaster. President Bush did not declare the October, 2008, wildfires in Los Angeles and Ventura Counties a federal disaster.

<u>THIS BILL</u>

As a Governor-proclaimed disaster, this bill would allow taxpayers affected by the Los Angeles and Ventura County wildfires in October or November, 2008, to elect to file an amended return for the prior taxable year to deduct the disaster loss and reduce the prior year tax liability, resulting in an expedited refund. This bill would also allow special carry forward treatment for up to fifteen taxable years for losses sustained as a result of the wildfires.

As a Presidentially-declared disaster, existing law allows taxpayers affected by the November, 2008, Los Angeles County wildfires to elect to file an amended return for the prior taxable year to deduct the disaster loss and reduce the prior year tax liability, resulting in an expedited refund

ECONOMIC IMPACT

<u>Revenue Estimate</u>

The revenue impact for this bill would be as follows:

Estimated Revenue Impact of AB 15 Effective Immediately Upon Enactment Enactment Assumed After June 30, 2009				
	2008-09	2009-10	2010-11	3-Year Impact
October	-$1,000	+$1,000	$0	$0
November	-$5,000	+$3,000	+$2,000	$0
Total	-$6,000	+$4,000	+$2,000	$0

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue impact of this bill would depend on the extent affected taxpayers file amended 2007 income tax returns and report a disaster loss deduction as a result of wildfires that commenced in October or November, 2008, in Los Angeles and Ventura Counties.

October Wildfires (Marek and Sesnon Fires)

Los Angeles County

Total property damages attributable to the October, 2008, wildfires are estimated at approximately $40 million (75 residences destroyed at an average home value of $485,000 plus 3 commercial buildings valued at a total of $1 million, plus 63 outbuildings valued at $100,000 each). It is estimated that 90 percent of losses would be insured. Therefore, uninsured losses would be approximately $4 million ($40 million X 10%). Assuming an average marginal tax rate of 6.25 percent, this would yield a disaster loss deduction of approximately $250,000 ($4 million X 6.25%).

Losses may be used in the year prior to the disaster, the year of the disaster, or carried forward to future years. This bill would extend the period to report the disaster loss deduction on an amended 2007 return from April 15, 2009, to October 15, 2009. Approximately 1 percent of taxpayers would take advantage of this extension, for a revenue loss of approximately $2,500 ($250,000 X 1%). Of this loss, approximately one-half or $1,250 (-$2,500 X 50% = -$1,250) would be applied to reduce tax liabilities for the 2008-09 fiscal year.

Future years would reflect offsetting revenue gain. Department data suggest that offsetting revenue gains would be approximately 50 percent in 2009-10, or $625 ($1,250 X 50%), and 30 percent in 2010-11, or approximately $375 ($1,275 X 30%). Amounts less than $1,000 are rounded. The overall revenue impact for the three-year period is zero (-$1,000 + $1,000 + $0).

Ventura County

The Calfire map for the Sesnon wildfire indicated that less than 1% of the fire occurred in Ventura County. The revenue impact is less than $100; amounts less than $1000 are rounded to zero in the revenue table.

November Wildfire (Sayre Fire)

Los Angeles County

Total property damages attributable to the November, 2008, Los Angeles County wildfire would be estimated at approximately $181 million (487 residences destroyed at an average home value x $340,000 + 1 commercial building valued at three times residential +146 outbuildings valued at $100,000 each). It is estimated that 90 percent of losses would be insured. Therefore, uninsured losses would be approximately $18 million ($181 million X 10%). Assuming an average marginal tax rate of 6.25 percent, this would yield a disaster loss deduction of approximately -$1 million ($18 million X 6.25%).

Losses may be used in the year prior to the disaster, the year of the disaster, or carried forward to future years. This bill extends the period to report the disaster loss deduction on an amended 2007 return from April 15, 2009 to October 15, 2009. Approximately 1 percent of taxpayers would take advantage of this extension, for a revenue loss of -$10,000 (-$1 million X 1%). Of this loss, approximately one-half would be applied to reduce tax liabilities (-$10,000 X 50% = -$5,000) for the 2008-09 fiscal year.

Future years would show offsetting revenue gains. Department data suggest that offsetting revenue gains would be approximately 50 percent in 2009-10, or $3,000 ($5,000 X 50%), and 30 percent occur in 2010-11, or $2,000 ($5,000 X 30%). The overall revenue impact for the three-year period is zero (-$5,000 + $3,000 + $2,000).

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